

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

RAMAH MARRIS,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-14-471-D
)	
ADRIANNA ULLOA-MARQUEZ,)	
JOHN NOWAKOWSKI, and)	
WESLEY SMITH,)	
)	
Defendants.)	

ORDER

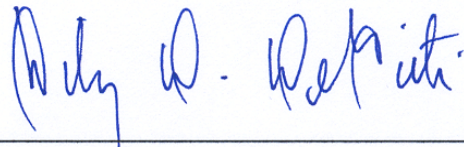
This matter is before the Court for review of the Amended Report and Recommendation [Doc. No. 12] issued June 18, 2014, by United States Magistrate Judge Suzanne Mitchell pursuant to 28 U.S.C. § 636(b)(1)(B)-(C). Judge Mitchell recommends dismissal without prejudice of Plaintiff's complaint brought pursuant to 42 U.S.C. § 1983 based on a lack of subject matter jurisdiction.

A review of the case file reflects that Plaintiff has neither filed a timely objection to the Report nor requested additional time to object, even though he was informed of the deadline and the manner for filing an objection and the consequence of failing to object. It appears that Plaintiff's lack of objection may be due to a lack of notice. On June 26, 2014, a copy of the Report mailed to Plaintiff at his address of record was returned as undeliverable. Nonetheless, the Court finds that any failure to receive a copy of the Report does not provide a basis for an exception to the court of appeals' "firm waiver rule" because Plaintiff was responsible for giving notice of any change of address. *See Theede v. United States Dep't of Labor*, 172 F.3d 1262, 1267-68 (10th Cir. 1999) (*pro se* plaintiff who failed to provide any change of address or address correction waived right to review

by failing to make a timely objection); *see also* W.D. Okla. R. LCvR5.4(a) (requiring written notice of a change of address and further providing that papers sent by the Court are “deemed delivered if sent to the last known address given to the Court”). Therefore, the Court finds that Plaintiff has waived further review of the issues addressed in the Report.

IT IS THEREFORE ORDERED that the Amended Report and Recommendation [Doc. No. 12] is ADOPTED in its entirety. Plaintiff’s action against Defendants is DISMISSED without prejudice to refiling for lack of subject matter jurisdiction. Because no other claims remain pending, a separate judgment of dismissal shall be entered.

IT IS SO ORDERED this 22nd day of July, 2014.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE